

FARMERS' DEBTS ADJUSTMENT.

21° G^{NO}. V., No. XLIX.

No. 49 of 1930.

AN ACT for the adjustment of the Debts of Farmers and other Persons engaged in Rural Pursuits, and for other relative purposes.

[Assented to 30th December, 1930.]

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the *Farmers' Debts Adjustment Act*, 1930. Short title.

2. In this Act, subject to the context— Interpretation.

“Director” includes any deputy director.

“Farmer” means any individual person who is a resident of this State, and who is engaged in farming or agricultural or horticultural or grazing operations in the State.

“Farm” means the land on which such operations as aforesaid are carried on.

“Receiver” means a receiver appointed by the Director under this Act.

“Machinery” means machinery, implements and vehicles used in connection with the business of a farmer.

“Stay order” means an order directing a stay of proceedings granted under section five of this Act.

Construction of
Act.

3. (1.) This Act shall be construed subject to the Commonwealth of Australia Constitution Act and so as not to exceed the legislative power of the Parliament of the State, to the intent that any portion thereof which may be held were in excess of that power shall (to the extent to which it is so in excess) be deemed to be severable from the other portions of the Act and not to affect the validity or operation thereof.

(2) This Act shall be construed so as to bind the Crown.

Director.

4. (1.) It shall be lawful for the Governor to appoint a Director for the purpose of this Act, and also to appoint any person or persons to be the deputy or deputies of the Director.

(2.) The Director may appoint officers whom he may deem necessary to enable the powers of the Director under ~~this~~ Act to be effectively exercised.

(3.) The Director (which word does not in this subclause include Deputy Director) and other officers shall receive such remuneration as shall be determined by the Governor, which remuneration shall be payable out of such moneys as may be appropriated by Parliament for the purpose.

(4.) Deputy Directors and persons appointed to act as receivers shall be remunerated only by payment of the prescribed fees for the work performed in respect of each estate, which fees shall be borne and paid out of the estate and property of the farmer concerned.

(5.) Any expense or liabilities peculiar to the administration of the estate or property of any particular farmer shall be defrayed and discharged out of such estate and property.

Application to
Board to call
meeting of farmer's
creditors.

5. (1.) Any farmer, or the creditor of any farmer, may by writing under his hand in the prescribed form make application to the Director to call a meeting of the farmer's creditors under this Act.

(2) The Director shall thereupon grant the farmer a stay order in the prescribed form, and shall by order in writing appoint some fit and proper person to be the receiver of the rents, profits, and produce of the farmer's farm and of all chattels, effects, and property used in connection with the business of the farmer or derived from such business.

(3.) The receiver shall forthwith after his appointment take possession of such farm, chattels, effects, and property, and shall retain possession thereof as long as the farmer is subject to this Act.

6. (1.) A meeting of creditors under this Act shall be called forthwith by the Director by circulars delivered at or posted to the address of each of the creditors not less than five and not more than fourteen days before the day on which the meeting is to be held, and by advertisement as prescribed.

Meetings of
creditors, how
called.

(2.) The omission to give notice to any creditor shall not invalidate the meeting or any proceeding following thereon.

7. (1.) A stay order shall direct that no action, execution, distress for rent, proceedings on default or breach of covenant under any mortgage or other security for money, or under an agreement of sale and purchase of land, or other process or proceeding shall be commenced or proceeded with or put in force against the farmer or his estate or effects during the operation of such stay order.

Stay of proceedings.

(2.) Provided, every such order shall be published in the *Gazette* and shall be further advertised as prescribed, and shall have effect according to its tenor, and shall remain in force until the expiry of twenty-one days after the meeting and any adjournment thereof, whether any resolution be passed at the meeting or not, and on the expiry of the order the farmer shall cease to be subject to this Act.

8. (1.) An order appointing a receiver under this Act shall remain in force as long as the stay order granted in connection with the affairs of the same farmer and no longer; provided that the Director may at any time remove a receiver from his office and appoint another person in his place.

Powers and duties
of receiver.

(2.) The receiver shall be deemed to be the agent of the farmer.

(3.) A receiver shall, whenever called upon by the Director, and on the termination of his receivership, furnish the Director with full and accurate accounts of all moneys and other property received by virtue of or in connection with his office.

(4.) The Supreme Court or a judge may, on application by a receiver, make such orders as may be necessary to facilitate and ensure the exercise of any of the powers of the re-

ceiver, and may also at any time, on application by the Director or any person interested, make such orders for the taking of the accounts of a receiver as may be deemed to be expedient.

(5.) The Director may at any time require a receiver to deliver to him any moneys or other property in his hands as such receiver, and the Supreme Court or a judge may, on the application of the Director, make such order as shall be necessary to compel compliance with the requisition.

(6.) Any application under this section may be made by motion or summons.

Continuation of proceedings when order ceases to operate.

9. (1.) When a stay order has ceased to operate, any proceeding or process pending or in course of being put into operation against the farmer or his estate or effects at the time when the order was made, may be continued and proceeded with, and in computing the time for taking any further step in connection therewith, no account shall be taken of the period which has elapsed since the making of the order.

(2.) Such period as aforesaid shall not be taken into account, in connection with any claim affected by the order, for the purposes of any statute of limitations.

Meetings of creditors.

10. (1.) At any meeting of creditors some person chosen by a majority in value and number of the creditors present in person or by proxy shall preside.

(2.) For the purpose of voting, any two or more joint creditors shall be treated as a single creditor, and in calculating a majority of creditors, creditors whose debts amount to sums not exceeding ten pounds shall be reckoned in the majority in value but not in the majority in number.

(3.) If any dispute shall arise as to the right to vote it shall be settled by the chairman or, if the chairman has not been elected, by the Director who convened the meeting, whose decision shall be final.

Amicable arrangements to be attempted.

11. As soon as practicable after the opening of the meeting the chairman shall invite the creditors to ascertain by consultation amongst themselves whether it is not possible to arrange the affairs of the farmer to advantage, and the creditors may, by a majority in value and number of those present or represented at the meeting or any adjournment thereof, pass any resolution for the adjustment or arrangement of the farmer's affairs, which may appear to them to be expedient.

12. (1.) The farmer shall not, whilst subject to this Act, mortgage, charge, pledge, or create any lien upon or otherwise encumber or transfer, assign, or part with the possession or control of any part of his real or personal property, credits, or effects without the consent of the receiver.

Farmer not to encumber or part with his property.

Penalty: One hundred pounds or six months imprisonment.

(2.) Any mortgage, charge, pledge, lien, encumbrance, transfer, assignment or delivery given, executed or made contrary to this section shall be void and of no effect.

13. The owner of any machinery which is in possession of the farmer under a hire-purchase agreement shall not, during the operation of a stay order, take any steps to terminate the agreement, or to take the machinery out of the possession of the farmer.

Hire-purchase agreements.

14. The receiver shall open a bank account in connection with the farmer's property or estate in respect of which he has been appointed, and shall pay and deposit at the bank all such moneys and securities of the farmer as may be received by him.

Bank account.

15. (1.) If any question shall arise, in the course of the administration of this Act, touching the rights of any creditor or alleged creditor, or as to the validity of any proceeding or act which has been taken or done, or purports to have been taken or done under this Act, or as to the extent of the powers of the Director, such question may be referred by the Director, or any person interested, to a judge for decision; the decision of the judge on the question shall be final and conclusive.

Power to refer to judge questions arising under this Act.

(2.) In any proceeding before a judge (whether under this or any other section of this Act) he may make such order as to costs as shall be just and reasonable.

(3.) Any order made by a judge under any section of this Act may be enforced as an order of the Supreme Court.

Costs and enforcement of orders.

16. Neither the Director nor any officer appointed by the Governor under this Act nor the Crown shall be under any liability to any farmer, whose affairs are being, or have been arranged or adjusted under this Act, or to any creditor of such farmer, for or in respect of any act or omission of any receiver, or for or in respect of any debt or obligation incurred by any receiver.

Exemption from liability for acts or omissions of receivers.

Offences.

17. Any person who infringes or contravenes any provision of this Act, by act or omission, shall be guilty of an offence, and punishable on summary conviction by a fine not exceeding ten pounds or imprisonment for not exceeding one month, or any greater penalty provided by this Act for the offence.

Regulations.

18. The Governor may make regulations for the ordering and regulation of such acts, matters, or things as it may be necessary or convenient to order or regulate for the purpose of ensuring the effective operation of this Act and carrying out of the objects thereof.

Duration of Act.

19. This Act shall continue in operation till the end of the month of March, nineteen hundred and thirty-two, and no longer.